

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 10, 2002**

AGENDA ITEM NO.: **14**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Salvation Army**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: The Salvation Army has petitioned for a CUP at 805 Stuart Street for the use of an existing structure for a group home for up to six women and children residents with one staff resident in an R-3, Two-Family Residential District. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the General Plan in that a group home is a permitted use in a Medium-Density Residential area.
- Petition agrees with the Zoning Ordinance in that group homes are permitted in a residential district upon approval of a CUP by the City Council.
- Petition proposes the use of the property as a woman's shelter for up to six (6) women and children and one (1) staff resident.
- The petitioner operates an identical facility adjacent to the proposed group home, which has not been detrimental to the neighborhood.

Section 35.1-15(f) of the Zoning Ordinance states: "In approving a conditional use permit City Council may impose any conditions which it deems necessary or appropriate."

PRIOR ACTION(S): June 19, 2002: Planning Division recommended approval of the CUP.
Planning Commission recommended approval (6-0, with one member absent) of the CUP with the following conditions:

1. The property shall be developed and used in substantial compliance with the Council approved site plan.
2. The stay of any one client should not exceed thirty (30) consecutive days, but shall not exceed sixty (60) consecutive days.
3. The occupancy level of the emergency shelter shall be limited to six (6) clients (women and children) and one (1) resident staff person. This number does not supersede what is allowed by the "Building Officials Code Administrators, (B.O.C.A.) code.
4. Exterior lighting for the development shall be controlled so that direct illumination shall not be visible beyond the property line.
5. No signs shall be permitted on the property indicating the use as an emergency shelter.
6. Parking will be in the existing Salvation Army Parking Area to the rear of the property.
7. The existing Salvation Army playground facilities will be used for recreation areas.
8. Landscaping in the form of evergreen material and shade trees shall be planted along the northwestern property line as approved by the City's Urban Forester and the City Planner.
9. A subdivision plat vacating the interior lot lines of all Salvation Army property will be submitted and recorded.
10. The Conditional Use Permit is subject to repeal by the City Council if the emergency shelter becomes a nuisance to the community.
11. The Salvation Army, with the assistance from Mr. Andrew Hariston, conducts a "neighborhood meeting" to acquaint all with what is planned and what the conditions are by September 6, 2002.

FISCAL IMPACT: N/A

CONTACT(S): Rachel Flynn / 847-1508, ext. 253
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S): Resolution, PC Report, PC minutes, Site plan, Narrative, Letter from Property Owner

REVIEWED BY:

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO THE SALVATION ARMY FOR USE OF THE PROPERTY AT 805 STUART STREET AS A GROUP HOME, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of the Salvation Army for a Conditional Use Permit for use of the property at 805 Stuart Street as a group home for up to six (6) women and children with one staff resident, be, and the same is hereby, approved, subject to the following conditions:

1. The property shall be developed and used in substantial compliance with the Council approved site plan.
2. The stay of any one client should not exceed thirty (30) consecutive days, but shall not exceed sixty (60) consecutive days.
3. The occupancy level of the emergency shelter shall be limited to six (6) clients (women and children) and one (1) resident staff person. This number does not supersede what is allowed by the "Building Officials Code Administrators, (B.O.C.A.) code.
4. Exterior lighting for the development shall be controlled so that direct illumination shall not be visible beyond the property line.
5. No signs shall be permitted on the property indicating the use as an emergency shelter.
6. Parking will be in the existing Salvation Army Parking Area to the rear of the property.
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8. Landscaping in the form of evergreen material and shade trees shall be planted along the northwestern property line as approved by the City's Urban Forester and the City Planner.
9. A subdivision plat vacating the interior lot lines of all Salvation Army property will be submitted and recorded.
10. The Conditional Use Permit is subject to repeal by the City Council if the emergency shelter becomes a nuisance to the community.
11. The Salvation Army, with the assistance from Mr. Andrew Hariston, conducts a "neighborhood meeting" to acquaint all with what is planned and what the conditions are by September 6, 2002.

Adopted:

Certified:

Clerk of Council

182L

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 **434-847-1508**

To: Planning Commission
From: Planning Division
Date: August 21, 2002
Re: **CONDITIONAL USE PERMIT (CUP): Salvation Army, 805 Stuart Street.**

I. PETITIONER

Salvation Army, 2215 Park Avenue, Lynchburg, VA 24501 (Contract Purchaser)
Representative: Ms. Alice Smith, 5521 Fort Avenue, Lynchburg, VA 24502

II. LOCATION

The subject property is a tract of about 0.171 acres located at 805 Stuart Street.
Property Owner: Charles and Carolyn Wade, Lynchburg, VA 24501.

III. PURPOSE

The purpose of this petition is to allow a group home for up to six (6) residents (women and children) with one (1) staff resident at 805 Stuart Street.

IV. SUMMARY

- Petition agrees with the General Plan, in that a group home is a permitted use in a Medium -Density Residential area.
- Petition agrees with the Zoning Ordinance in that group homes are permitted in a residential district upon approval of a CUP by the City Council.
- Petition proposes the use of the property as a woman's shelter for up to six (6) women and children and one (1) staff resident.
- The petitioner operates an identical facility adjacent to the proposed group home, which has not been detrimental to the neighborhood.
- **The Planning Division recommends approval of the CUP petition.**

V. FINDINGS OF FACT

1. **General Plan.** The Lynchburg *General Plan* recommends a Medium Density Residential use for the subject property. The proposed CUP is in agreement with the *General Plan* in that a group home is a permitted use in residential areas upon approval of a CUP by the City Council. Residential Development, Policy 8 states that "Older residential areas should be first considered in terms of their strengths rather than their weaknesses". The majority of the homes in the area were constructed in the early to mid 1900's. The adaptive reuse of existing structures should be encouraged while maintaining the overall character of the neighborhood. The location of the structure in relation to the existing Salvation Army facilities facilitates it being a candidate for reuse. However, this transition should be done in such a way as not to be detrimental to the neighborhood. The subject property is located in the "Miller Park" neighborhood. Eighty-eight percent (88%) of the homes in the block are owner occupied.
2. **Zoning.** The subject property was annexed into the city in 1908. The property has been zoned for residential uses since that time, with its current zoning of R-3, Two-Family Residential District adopted in 1978. The proposed use of the property as a group home will not change the existing zoning.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the use of the existing structure as a group home.
4. **Surrounding Area.** The following are items in the surrounding area that have required City Council approval:

- On February 22, 1979 the City Council approved the CUP petition of the Salvation Army for the construction of a new building at 2215 Park Avenue.
 - On June 11, 1985 the City Council approved the CUP petition of the Salvation Army for a game room addition at 2215 Park Avenue.
 - On December 8, 1987 the City Council approved the CUP petition of Euclid Christian Church for a play area and parking addition at 2220 Memorial Avenue.
 - On June 8, 1993 the City Council approved the CUP petition of the Salvation Army for the operation of a group home with up to seven (7) residents at 807 Stuart Street.
 - On June 11, 1996 the City Council approved the CUP petition of the Salvation Army for the operation of a childcare facility at 2215 Park Avenue.
5. **Site Description.** The subject property is bordered to the north and east (across Stuart Street) by single-family residences and to the south and west by other Salvation Army facilities. The property consists of 0.171 acre with a 1,687 square foot wooden structure constructed in 1929. There is one (1) small out building at the rear of the parcel that is proposed for storage. The site is adequately landscaped and no exterior modifications are proposed for the property other than normal maintenance.
 6. **Proposed Use of Property.** The purpose of the CUP is to allow a group home for up to six (6) residents (women and children) with one (1) staff resident in an R-3, Two-Family Residential District. The length of stay will not exceed thirty (30) days.
 7. **Traffic & Parking.** The City Traffic Engineer had no comments of concern regarding the proposed group home. Section 35.1-56.1, Group Homes, of the Zoning Ordinance requires that a minimum of two (2) parking spaces be provided for every group home, plus one (1) space for every eight (8) residents, or one (1) for every resident with a car, and one (1) space for every three (3) staff members. Based on the petitioners submitted narrative a total of four (4) parking spaces would be required for the proposed group home. The petitioner is proposing to use the existing Salvation Army parking area to meet the parking requirements. It is noted that this arrangement is preferable, and "on street" parking should not be encouraged or allowed. Access to and from the group home will be from the rear of the property.
 8. **Storm Water Management.** A storm water management plan will be not be required for the use of the existing structure as a group home.
 9. **Impact.** The current submittal proposes the use of an existing structure for a group home for up to six (6) women and children residents and one (1) staff resident in an R-3, Two-Family Residential District. The Salvation Army has operated an identical facility at 807 Stuart Street since 1993. The existing group home facility is adjacent to the one being proposed.

Of particular concern to the Planning Division is the expansion of an institutional use into a stable neighborhood. This concern was also expressed in the previous staff report for the then proposed group home located at 807 Stuart Street: "Undeniably, the Salvation Army provides a valuable, important service to the community. However, like any institutional use as it expands in a specific area, it has the potential for undermining the character of the neighboring residential area. With proper care and attention by the Salvation Army management, the proposed use can coexist with the Stuart Street residential area. However, any future expansion into this neighborhood should be discouraged. The Cornerstone Community Church facility may prove to be an opportunity for further expansion by the Corps. If expansion is to be considered, this avenue should be carefully explored." According to the petitioner the Salvation Army has explored purchasing the Cornerstone Community Church property, but has been unsuccessful.

A review of the City's Assessors data for the immediate area, (properties fronting Stuart Street between Park Avenue and Park Place) indicates that the existing group home has in fact not been detrimental to the neighborhood (See Attachment Thematic 1). Since June 1993, when the existing group home was approved by the City Council, there have been ten (10) property transfers other than the group home itself. Of these ten (10) property transfers seven (7) properties have remained as "owner occupied" homes, one (1) property has been converted to an office use by Board of Zoning Appeals action, one (1) property has been converted to a rental unit, and one (1) has changed ownership, but the existing multi-family use was left intact. Tax assessment values for the properties have also increased or remained stable. As with the previous CUP, the proposed group home is unlikely to have a negative effect on the surrounding

neighborhood. However, the Planning Division encourages the petitioner to investigate the long-term needs for this and other types of uses. A "Master Plan" for the Salvation Army properties should be prepared and submitted for approval.

The total assessed value of the property and building is \$58,800. The City's current real estate tax is \$1.11 per \$100 of assessed value. A total of \$652.68 in tax revenue will be lost annually by the proposed conversion to a group home. The existing group home is currently assessed at \$63,000. Approximately \$699.30 in tax revenue has been lost annually, or \$6,293.70 since its conversion in 1993. Although tax revenue is a concern, the services provided by the Salvation Army are beneficial and valuable to the City. According to the petitioner, clients in this program find themselves in need of assistance mainly for financial reasons. Clients are referred to the Salvation Army by Social Services, the Courts, the United Way, and area clergy. While enrolled in the program clients have access to job placement services, although employment is not always guaranteed.

The Building Officials Code Administrators (B.O.C.A.) code will classify the proposed use as group R1 classification. This classification applies to uses with five (5) or more transient occupants and additional requirements will apply. The building will be required to have sprinkler systems throughout, smoke detectors, manual fire alarms at exits, and exit signs and emergency lights installed where appropriate.

Section 35.1-56.1(b), Group Homes of the Zoning Ordinance requires that for residents over eighteen (18) years of age an appropriately enclosed outside recreation area of not less than thirty (30) square feet per resident enrolled be provided. For residents eighteen (18) years or less, an enclosed recreation area of not less than seventy-five (75) square feet per resident is required. The Salvation Army currently has ample playground facilities that would be available to the residents. An additional playground facility on the property is not encouraged. Although buffer requirements are activated by placement of parking areas and recreation areas (both of which are not on the subject property), it is still recommended that evergreen material and shade trees be planted along the northwestern property line.

If exterior and interior modifications are kept to a minimal, the property could revert back to a single-family use at such time as decided by the petitioner.

10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on July 23. Comments related to the proposal were minor in nature and will be addressed by the developer prior to final site plan approval.
11. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary or appropriate in approving a CUP.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of the Salvation Army for the use of an existing structure at 805 Stuart Street for a group home with up to six (6) women and children and one (1) staff resident in an R-3, Two-Family Residential District, subject to the following conditions:

1. The property shall be developed and used in substantial compliance with the Council approved site plan.
2. The stay of any one client shall not exceed thirty (30) consecutive days.
3. The occupancy level of the emergency shelter shall be limited to six (6) clients (women and children) and one (1) resident staff person. This number does not supersede what is allowed by the "Building Officials Code Administrators, (B.O.C.A.) code.
4. Exterior lighting for the development shall be controlled so that direct illumination shall not be visible beyond the property line.
5. No signs shall be permitted on the property indicating the use as an emergency shelter.
6. Parking will be in the existing Salvation Army Parking Area to the rear of the property.
7. The existing Salvation Army playground facilities will be used for recreation areas.

8. **Landscaping in the form of evergreen material and shade trees shall be planted along the northwestern property line as approved by the City's Urban Forester and the City Planner.**
9. **A subdivision plat vacating the interior lot lines of all Salvation Army property will be submitted and recorded.**
10. **The Conditional Use Permit is subject to repeal by the City Council if the emergency shelter becomes a nuisance to the community.**

This matter is respectfully offered for your consideration.

William T. Martin
Planner III

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Alice Smith, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**

(see attached map)

2. **Vicinity Proposed Land Use**

(see attached map)

3. **Thematic Map 1**

(see attached map)

4. **Site Plan**

(see attached site plans)

5. **Narrative**

(see attached narrative)

MINUTES FROM THE AUGUST 21 PLANNING COMMISSION MEETING

These minutes have not been reviewed or approved by the Planning Commission

Petition of the Salvation Army for a Conditional Use Permit at 805 Stuart Street for the use of an existing structure for a group home for up to six women and children residents and one staff resident in an R-3, Two-Family Residential District.

Mr. Tom Martin explained that since 1993 the Salvation Army had operated an identical facility at 807 Stuart Street, which was adjacent to the subject property. He said at that time the Planning Division had encouraged the Salvation Army to look elsewhere for additional facilities instead of intruding further into the neighborhood, and added that the petitioner had investigated purchasing another piece of property in the area, but it was not for sale. Mr. Martin said that the organization was in the process of developing a master plan, which had been encouraged by the Planning Division and had been included as a Condition of the CUP. He continued by explaining that under the BOCA code the property would be classified as R-1 for five or more transient guests. He said a sprinkler system would be required as well as additional smoke alarms and fire exit signs.

Mr. Martin told the Commission that he had looked at property transfers since 1993 when the group home went into effect and found that there were no detrimental effects on the neighborhood or on the property values. He added that of the ten properties transferred seven remained owner-occupied, one was converted to rental use, one was changed to office use and one was an existing multi-family which remained the same.

Major John Rhemick, Commanding Officer of the Salvation Army, and Captain Charles Bennett, President of the Salvation Army Advisory Board, represented the request. Major Rhemick told the Commission that they operated a 30-day program with a 60-day extension option if the staff thought the additional time would benefit the family. Therefore, he said, the Salvation Army often found themselves without space for women and their children in their Hope House. He said when the subject property went on the market they thought it would be a good idea to purchase the house in order to have extra beds available. He continued by saying that they had closed their community center in order to open a childcare facility for low-income families and welfare-to-work mothers. Major Rhemick said they were beginning to think about a master plan so they could determine what the Salvation Army needed to do to benefit the community for the next 50 years and it would allow them to look at their entire property and begin to communicate with various constituencies in the City. He said they invited the neighbors to an open house to get feedback on their request, but no one attended.

Mr. Andrew Hairston, 803-805 Stuart Street spoke in opposition to the petition. Mr. Hairston said the reason no one attended the meeting hosted by the Salvation Army was that the neighbors had to work and could not attend the meeting on such short notice. He continued by saying that the first time the Salvation Army expanded there was a petition in opposition that was signed by the majority of the neighborhood, but those people did not want to attend this meeting because they did not think the City cared about them and were disappointed by the results of the last public hearing. Mr. Hairston said he loved his neighborhood and did not want to be pushed out by continued expansion of the organization. He asked if there were other facilities that the Salvation Army could refer clients to without having them in this neighborhood. He said he sometimes saw men and women from the facility meeting in the park or in cars together and added that the address of the shelter was not a secret from husbands. He added that they were not good neighbors.

Major Rhemick gave a rebuttal. He said he hated that the Salvation Army was perceived as trying to take over the neighborhood, when they were only trying to serve the community. He added that this was the first time he had heard that the Salvation Army was a bad neighbor, and hoped that they could do something to stop that image. He admitted that the notice for the meeting was last minute, but indicated that he had included his phone number in the letter for neighbors who had questions or concerns about the project but could not attend the meeting. Major Rhemick continued by saying there was a house manager in the morning, afternoon and through the night, but he could not guarantee that nothing bad would ever happen. He said husbands were banned from the facility and were issued a restraining order if they did not stay off of the property. He said he thought they had been successful at keeping their address from the public, but of course a resident could have made the address known. Major Rhemick said the programs they run were residential programs and transitional housing needed to be in a neighborhood to be effective.

Chair Dahlgren asked Major Rhemick if the Salvation Army would be willing to share their master plan with the neighborhood.

Major Rhemick said one of the steps in the master plan was to contact neighbors, clients, and donors and to work with members of the City who knew the problems in the area and how to combat them. He said the master plan was not developed yet and they were in the process of hiring a consultant to develop the plan for them.

Chair Dahlgren commented that he hated to see contentious situations develop between neighbors and the Salvation Army. He asked if the Salvation Army timeline would permit any type of delay for the purchase of the house in order to hold another neighborhood meeting.

Major Rhemick said the sellers had already been holding on to the property for three months and thinks they would continue to hold the house if they were sure that the Salvation Army was going to make the purchase. He added that the Salvation Army did not want problems any more than Mr. Hairston and the other neighbors did. He said he would be willing to work with an advocacy group in the neighborhood to address any problems, and said if the Salvation Army and the neighborhood worked together they could stop any situations before they became problems.

Mr. Hairston gave a rebuttal. He said he knew people who had been looking at the subject property to purchase, but they had been priced out of the market because the owners knew the Salvation Army would purchase the property at a higher price. He asked Major Rhemick what kind of maintenance had been done on the existing houses since the Salvation Army moved into the area?

Major Rhemick said they had done lots of maintenance to their property since they moved to the area. He said they had work orders come in every week and they took care of those situations as quickly as possible. He said at one point they had gotten a complaint about their grass being too high and since then had mowed the grass weekly until the recent drought put a stop to that need. Major Rhemick said that the subject house was not going to be taken away as a residence and would be utilized more as a safe house than as a single-family home. He said there were always people looking for help and there needed to be available places for those people to stay.

Commissioner Worthington said he also hated conflict between groups due to the quickness of the project. He said if members of the community and the Salvation Army could meet concerning this project and other issues they might be able to ease the tensions between the organization and the neighborhood. He said he understood that the neighborhood might not want an institution in their area. However, he said, the Salvation Army did very good work and there needed to be some kind of accommodation for those in need. He added that he wished they had come to some kind of understanding prior to this meeting.

Commissioner Wilkins commented that there was not much notice for the neighborhood meeting. She said she would feel comfortable for the Planning Commission to vote on this petition at this meeting with the condition that the two parties meet between this meeting and the City Council meeting on September 10. She continued by saying that a meeting would open up the lines of communication for the future without holding the petitioner up on their project.

Commissioner Flint said he would also like to vote at this meeting with a condition attached to avoid holding up the petition from the currently scheduled Council meeting.

Commissioner Moore noted the importance of the neighborhood being better informed about the project and thought a meeting between the two groups would provide that venue. He asked about the shared driveway and the parking lot behind 805 Stuart Street. Commissioner Moore suggested that the wording of Condition #2 be changed to better clarify the Salvation Army's policy for the length of stay.

Major Rhemick said their employees park in a lot owned by the Salvation Army and the residents park behind the house in a fenced in area. He added that access to the Salvation Army would be off Stuart Street. He

explained that the length of stay at the safe house was sixty days and could be extended for another thirty days if necessary.

Commissioner Echols asked who owned the property that the existing shared drive was on?

Mr. Hairston said he owned the subject driveway and was concerned about sharing it with the Salvation Army.

Major Rhemick said both residents currently use the driveway. He said the Salvation Army probably had the right to use the driveway, but did not think they would use it very much or at all.

Commissioner Echols asked if there ever happened to be a major disagreement between the Salvation Army and Mr. Hairston, could the driveway be closed off? He also asked who was responsible for maintaining the driveway? He said these items should be clear in the deed because in the future both properties might change ownership.

Major Rhemick said he did not know legally what “shared driveway” said if Mr. Hairston could legally close the driveway to the Salvation Army he did not think it would hurt their organization at all. He said they had all of the parking they needed in their back parking lot. Major Rhemick said the upkeep of the driveway would depend on what the deed said.

Chair Dahlgren asked Mr. Hairston if he would be willing to work with Major Rhemick in organizing a neighborhood meeting before the Council meeting.

Mr. Hairston said he would be willing to help organize such a meeting.

Chair Dahlgren said it appeared that most of the Commissioners wanted to make a decision on the petition at this meeting. He suggested that an eleventh condition be added to the motion which would state that a neighborhood meeting be held to acquaint everyone with the plans of the Salvation Army, and the meeting should be held no later than September 6. Chair Dahlgren offered to participate in the meeting as a citizen, not as a member of the Planning Commission, if the two groups would like to have him.

Commissioner Flint pointed out that Condition 10 stated that the CUP was subject to repeal by the City Council if the Salvation Army emergency shelter ever becomes a nuisance to the community. He added that the condition provides protection for the neighborhood.

Commissioner Moore amended Condition 2 of the proposed motion.

After further discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of the Salvation Army for the use of an existing structure at 805 Stuart Street for a group home with up to six (6) women and children and one (1) staff resident in an R-3, Two-Family Residential District, subject to the following conditions:

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11. The Salvation Army, with assistance from Mr. Andrew Hairston, conducts a "neighborhood meeting" to acquaint all with what is planned and what the conditions are by September 6, 2002.

AYES:	Dahlgren, Echols, Flint, Moore, Wilkins, Worthington	6
NOES:		0
ABSTENTIONS:		0

SALVATION ARMY

805 Stuart Street
Val. Map # 011-02-005
Conditional Use Permit Request
Petitioner: SALVATION ARMY

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property



200 ft Radius

